

SECOND REGULAR SESSION

# SENATE BILL NO. 834

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3382S.011

## AN ACT

To amend chapter 273, RSMo, by adding thereto four new sections relating to dangerous dogs, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 273, RSMo, is amended by adding thereto four new sections, to be known as sections 273.033, 273.035, 273.036, and 273.038, to read as follows:

**273.033. 1. In any action for damages or a criminal prosecution against any person for killing or injuring a dog, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing of such animal.**

**2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's domicile, any subsequent trespass shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact.**

**3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.**

**4. This section shall not be construed to provide an absolute**

21 defense to a person for any damage or injury to any person or property  
22 other than the dog itself that may result from actions taken in an  
23 attempt to injure or kill such dog nor shall it be construed to provide  
24 an absolute defense to the violation of a local ordinance prohibiting the  
25 discharge of firearms.

273.035. 1. The owner of any dog that bites any person while  
2 such person is on or in a public place, or lawfully on or in a private  
3 place, including the property of the owner of the dog, is strictly liable  
4 for damages suffered by persons bitten, regardless of the former  
5 viciousness of the dog or the owner's knowledge of such  
6 viciousness. Owners of dogs shall also be strictly liable for any damage  
7 to property or livestock proximately caused by their dogs.

8 2. Any person who is held liable under the provisions of  
9 subsection 1 of this section shall pay a civil fine not exceeding one  
10 thousand dollars. The remedies provided by this section are in  
11 addition to and cumulative with any other remedy provided by statute  
12 or common law.

273.036. 1. If a dog that has previously bitten a person or a  
2 domestic animal without substantial provocation bites any person on  
3 a subsequent occasion, the owner is guilty of a class B misdemeanor  
4 unless such attack:

5 (1) Results in severe injury to any person, in which case, the  
6 owner is guilty of a class A misdemeanor; or

7 (2) Results in the death of any person, in which case, the owner  
8 shall be guilty of a class C felony.

9 2. In addition to the penalty included in subsection 1 of this  
10 section, if any dog that has previously bitten a person or a domestic  
11 animal without substantial provocation bites any person on a  
12 subsequent occasion or if a dog that has not previously bitten a person  
13 attacks and causes severe injury to or the death of any human, the dog  
14 shall be seized immediately by an animal control authority or by the  
15 county sheriff. The dog shall be impounded and held for ten business  
16 days after the owner is given written notification and thereafter  
17 destroyed.

18 3. The owner or custodian of the dog that has been impounded  
19 may file a written appeal to the circuit court to contest the  
20 impoundment and destruction of such dog. The owner or custodian

21 shall provide notice of the filing of the appeal to the animal control  
22 authority or county sheriff who seized the dog. If the owner or  
23 custodian files such an appeal and provides proper notice, the dog shall  
24 remain impounded and shall not be destroyed while such appeal is  
25 pending and until the court issues an order for the destruction of the  
26 dog. The court shall hold a disposition hearing within thirty days of  
27 the filing of the appeal to determine whether such dog shall be  
28 humanely destroyed. The court may order the owner or custodian of  
29 the dog to pay the costs associated with the animal's keeping and care  
30 during the pending appeal.

31 4. Notwithstanding any provision of this section to the contrary,  
32 if a dog attacks or bites a person who is engaged in or attempting to  
33 engage in a criminal activity at the time of the attack, the owner is not  
34 guilty of any crime specified under this section or section 273.035 and  
35 is not civilly liable under this section or section 273.035, nor shall such  
36 dog be destroyed as provided in subsection 2 of this section. For  
37 purposes of this section "criminal activity" shall not include the act of  
38 trespass upon private property under section 569.150, RSMo, as long as  
39 the trespasser does not otherwise engage in, attempt to engage in, or  
40 have intent to engage in other criminal activity nor shall it include any  
41 trespass upon private property by a person under the age of twelve  
42 under section 569.140, RSMo.

273.038. Any dog that is owned, or the service of which is  
2 employed, by a law enforcement agency and that bites another animal  
3 or human in the course of their official duties is exempt from the  
4 provisions of sections 273.033 to 273.038.

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